

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
ABILENE DIVISION

UNITED STATES OF AMERICA

v.

BRACK EARL DANIELS (1)

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CASE NO. 1:22-CR-00024-H-BU

**REPORT AND RECOMMENDATION ON PLEA OF GUILTY  
BEFORE UNITED STATES MAGISTRATE JUDGE**

Defendant, BRACK EARL DANIELS (1), by consent and under the authority of *United States v. Dees*, 125 F.3d 261 (5th Cir. 1997), appeared with counsel before the undersigned United States magistrate judge for the purpose of entering a plea of guilty under Rule 11 of the Federal Rules of Criminal Procedure.

1. Recommendation regarding plea of guilty

Defendant was placed under oath and personally examined in open court by the undersigned concerning the subjects in Rule 11(b)(1) and the undersigned determined that Defendant understood each subject.

Defendant pleaded guilty, under a plea bargain agreement with the government, to Count One of the one-count Indictment charging Defendant with a violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2) Convicted Felon in Possession of a Firearm and Ammunition. After examining Defendant under oath, the undersigned magistrate judge finds the following:

1. Defendant, upon advice of counsel, has consented orally and in writing to enter this guilty plea before a magistrate judge subject to final approval and sentencing by the presiding district judge;
2. Defendant fully understands the nature of the charges, including each essential element of the offense(s) charged, and the associated penalties;
3. Defendant fully understands the terms of the plea agreement and plea agreement supplement;
4. Defendant understands all constitutional and statutory rights and wishes to waive those rights, including the right to a trial by jury and the right to appear before a United States district judge;
5. Defendant's plea is made freely and voluntarily;
6. Defendant is competent to enter this plea of guilty;
7. There is a factual basis for Defendant's plea of guilty; and
8. The ends of justice are served by acceptance of Defendant's plea of guilty.

Based on the above, I recommend that Defendant's plea of guilty be accepted, that Defendant be adjudged guilty, and that sentence be imposed accordingly.

2. Rule 11(c)(1)(C) agreement

**The undersigned notes that the plea agreement contains a Rule 11(c)(1)(C) agreement stipulating that a specific sentence of "time served" is the appropriate disposition of this case. See Fed. R. Crim. P. 11(c)(1)(C).** The undersigned specifically examined Defendant concerning the Rule 11(c)(1)(C) agreement and Defendant understands the district judge is not bound by this agreement. Defendant also understands that if the district judge chooses not to follow the agreement, Defendant will be provided the opportunity to withdraw his plea of guilty. But if Defendant chooses not to withdraw his plea of guilty under those circumstances, Defendant understands that the district judge

may impose a more severe sentence without being bound by the terms of the Rule 11(c)(1)(C) agreement.

3. Waiver of 14-day objection period and recommendation

Although I have conducted these proceedings and accepted Defendant's plea of guilty, the United States district judge has the power to review my actions and possesses final decision-making authority in this proceeding. Defendant was advised that he may file specific written objections to this Report and Recommendation within fourteen (14) days of today. *See* FED. R. CR. P. 59(b). But here, **Defendant has filed a written waiver of the 14-day objection period and consents to the district judge immediately accepting the recommendations herein.** Dkt. No. 103. The undersigned specifically examined Defendant during his arraignment to determine whether this waiver was knowing and voluntary and, based on that examination, finds that it was. The undersigned further finds that this waiver was made with the advice of counsel. Thus, the undersigned further recommends that the district judge accept Defendant's waiver of the 14-day objection period.

4. Recommendation regarding expedited Presentence Report

Because the plea agreement contains a Rule 11(c)(1)(C), if the court accepts this Recommendation on Plea of Guilty, and adjudges Defendant guilty, it is the further recommendation of the undersigned that the district judge reserve judgment on accepting the plea agreement until after the Presentence Report is completed and the sentencing hearing is conducted. But because the parties stipulate that the appropriate sentence in this

case is one of “time served,” the undersigned further recommends that the district judge order an expedited preparation of the Presentence Report.

The Clerk will furnish a copy of this Order to each of attorney of record.

Signed on: 1st day of June, 2023.

A handwritten signature in black ink, appearing to read 'J. Parker', is written above a horizontal line.

JOHN R. PARKER  
UNITED STATES MAGISTRATE JUDGE